

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DELOISE PRICE,

PLAINTIFF

VS.

CASE No. 2:06-CV-721

**WAL-MART STORES, INC.,
et al.,**

DEFENDANTS

**DEFENDANTS'
DEPOSITION DESIGNATIONS**

Come now the Defendants and pursuant to the Scheduling Order [Doc. 9]
designate the attached deposition excerpts that may be used at trial.

/s/ Dennis R. Bailey
Dennis R. Bailey
Attorney for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon the following counsel of record by placing a copy of same in the United States Mail, first class postage prepaid, on this the 17th day of October, 2007.

Jock M. Smith
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/s/ Dennis R. Bailey
Of counsel

December 18, 2001 Deposition

Price Deposition

18-Dec-01

18-Dec-01

Page	Line	Testimony
7	16	Lives at 11 Spring Valley Road, Montgomery, Alabama
7	19	Lives with her children "because of my condition." Michelle Jackson and Ella Frazier.
10	13	Married to Willie J. Price. Can't say where he is. They have been separated nine months.
12	17	Last worked in 1971 with Simplex International.
12	5	Also was a nurses' aid at J.Paul Jones Hospital.
14	13	I get disability. I have something called psedomotor cerebri. It creates pressure.
14	9	It's a slow disease that takes away the sight. Also severe headaches.
14	21	Dr. Rosey Cook is my doctor for that.
15	14	Dr. Zeiger in Birmingham put a shunt in my head to relieve the pressure in 1973.
18	10	Has been SS disability continuously since 1975.
18	20	Dr. Cook checks her periodically to see if she is still disabled.
22	17	Was convicted of a felony 10-11 years ago [1990?] for drugs. My son came home from Lansing Michigan and was selling drugs for about three days out of my house. Crack cocaine.G35
25	1	Have previously sued Helig-Meyers for adding insurance to my account when I bought furniture. Case was settled.
27	6	No other lawsuits.
27	20	Accident at Bill's Dollar Store on November 28, 1998.
29	21	Ella Frazier and Michelle Jackson were there.
46	5	Hit the top of my left foot.
46	15	I couldn't move. I was hollaring. It was so severe I peed myself.
49	21	Went to the emergency room in Camden.
51	10	There were x-rays and they showed no fractures.
56	1	Suit against Bill's was filed a month after the accident.
61	8	Do not have a bladder problem. That was first and only time she lost control of bladder in public.
61	18	After visiting ER day of accident, the next time she saw a doctor was maybe 3 weeks to a month later.
62	11	First Dr. after ER was Rosey Cook.
63	14	Only injury was to my left foot.
63	21	Dr. Cook sent her to see Dr. Izetta Brown (podiatrist).
64	10	Sent to physical therapy in Thomasville, AL. Whirlpool and a TENS unit.
65	5	After completing therapy I still wasn't any better. Dr. Brown gave me Celebrex.
65	16	Dr. Brown sent me back to Dr. Cook who sent me to Dr. Freij in Selma.
66	8	Dr. Freij wanted me to see Dr. Littrell at Vaughn Medical Center (Selma).

December 18, 2001 Deposition

Page	Line	Testimony
67	2	Dr. Littrell sent me to Dr. Singh for pain management in Selma whom I am seeing now.
67	9	None of the doctors treated her for any problem other than her foot.
67	20	"I'm getting so tired. I have to take these epidural blocks. I have gained something like maybe 25 or 27 pounds from these steriods. He said this is a permanent injury you have."
68	13	"I can't wear heels and things like other peoples. I have to wear flat, soft shoes all the time, and I'm constantly in pain all the time. And it's caused so much conflict between me and my husband, sex and whatnot. I can't even have sex and stuff like that. It's so painful, my hip and leg."
68	23	"All the way from my toe. The pain run from the top of my feet down through my toe and up my hip constantly. And it caused us to have to separate."
69	6	"I'm hurting all the time and that's why I am with my children right now. I constantly hurt all the time, constantly. I'm used to wearing my heels and things to church. I can't do that. It's emotional and I can't help it."
69	15	[Husband left me because] "If he couldn't get it from me, he's got to get it from somebody."
70	2	"That's what he told me."
70	5	"We didn't have no problems and stuff till this. It's verry hard, very, very, very stressful."
70	13	Dr. Littrell wanted me to see Dr. Doss. She's a psychologist.
70	16	"The pain and the pressure and stuff on me has just go to me, I don't even feel like it's worth living for. I really don't. If I got to go through life like the, I promise you I don't feel like it's worth living for. I can't associate with peoples."
70	23	[I can't associate with people because of] "The pain, pain, the pain, the pain and the anger that it makes me. If I got to go on like this, it ain't worth living for because I thought maybe surgery or something could replace it and get me back to normal."
71	10	"No surgery ain't going to help me. I can't play with my grandchildren, run and play with them like I used to. Like, I'm walking with the stick and stuff. What man wants somebody with a stick. It just ain't life."
71	21	Dr. Cook prescribed the walking stick. My leg kept giving out on me. I kept falling.
72	3	[My husband left] "maybe into the prime of the two years of the accident. And he kept coming back and leaving, coming back and leaving. We were fussing and fighting and going on an stuff because he wanted to have sex and stuff, and we'd start and I couldn't perform like I used to."
73	1	"Couldn't do the chores around the house and keep the house and stuff. I was just like a baby that you got to nurse and give the bottle all the time. He told me them words."
73	6	"Then I called my children and I talked to them and they said Mom you cannot stay down there by yourself, you have got to come to Montgomery."
73	19	I see Dr. Singh pretty regular. The pain is so severe. I don't have the money to go back up the road.
74	6	I can't drive up to Montgomery [from Camden it is about 40 miles]
74	10	I can't drive to Selma [about 30 miles]. I drive a little bit around Camden.

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Page	Line	Testimony
75	10	"Before this accident...I had a whole half a acre of vegetables and potatoes and stuff where I could work and run my tiller plow and gather my vegetables and sell. I don't have any of that. Because I love to do that type stuff."
76	14	Currently taking "Dorcet" for the pain [probably Lorcet]. 3 to 4 times a day.
77	17	Never smoke, drunk or did drugs in my lief. I'm a faithful church member. Greater Faith Holiness Church.
79	3	Living with daughters because of her condition. Cannot take care of herself.
79	10	"I can't stand on my leg long enough to prepare a meal, get in the tub. It gave out on me several times. Sweeping, vacuuming, I've tried all that. That make the pain worse."
80	1	Address in Camden is 254 Jefferson Road.
80	17	My other daughter in Montgomery lives on Red Barn Road.
81	22	I also have Diabetes.
84	2	I am in constant pain today. From my toe to my hip.
84	12	Dr. Cook is my regular doctor.
84	15	The only other doctor I see on a regular basis now is Dr. Singh.

January 19, 2007 Deposition

Price Depo

19-Jan-07

19-Jan-07

Page	Line	Testimony
8	16	On no meds that will affect her ability to understand and give truthful answers
8	21	On two pain medications she cannot name.
9	23	Has lived at 5850 Carriage Brook Road about seven years.
10	3	She and her daughter own the house.
11	6	Only Willie J. Price and stepsister Irene Rich live there.
11	13	She and Willie have been married 20 odd years.
11	16	Anniversary is December 17th
11	18	DOB: 10/24/50
11	21	Currently 56
12	4	Went on disability in 1975
12	19	Disabled because of headaches.
13	13	Intercranium pressure caused the headaches
13	21	Knows of no other condition causing her disability in 1975
14	12	Dr. Roseanne Cook would know the most about her physical condition and has all her medical records.
15	16	Was taken off disability at one time.
15	10	Her headache problem resolved
16	16	Was off disability for about 7 months.
17	5	Never attempted to work while she was not receiving disability payments.
18	16	Government pays if she goes to a doctor. She is on Medicare.
19	16	Claims never to have fallen prior to exercise equipment event.
19	19	Claims never to have hurt her knees before this event.
19	23	Had never complained to a doctor about her knees before this event.
20	4	Had never hurt her neck before this event.
20	8	Involved in accident when a girl at a store dropped a hammer and stuff on my feet.
20	14	Happened about eight years ago I think.
20	22	Happened at Bill's Dollar Store.
21	6	Item's fell across the top of my left foot.
21	17	Suffered "Just Bruises. Had problems with my ligament."
22	1	Dr. Roseanne Cook and Dr. Bryant in Montgomery know the most about that injury.
22	7	Filed suit in Wilcox County over that claim.
24	4	Have only filed two cases. This one and the one in Wilcox County.

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Page	Line	Testimony
24	7	"Before this happened I was playing ball and doing my household, you know, and going anywhere that I wanted, you know, to go and do, driving, playing with the grandchildren 24/7 and having sex with my husband when I wanted."
25	9	At the time this happened I was 5'2" and 201 or 202 pounds.
25	17	Before the event I played volleyball and baseball in the backyard.
26	4	Before the event I did the cleaning, cooking, caring for my husband, washing and ironing, I would paint walls, hand wallpaper, mop, all that kind of stuff.
26	14	There were no household chores I could not do. I changed my furniture around.
26	20	Before this incident she was under no restrictions of any kind in my ability to move or do things.
27	3	Before accident she travelled to Boston, Detroit, Greenwood MS, Florida.
27	12	Was able to drive herself for 3 hours or more at a time.
27	20	Drove an SUV and an RV.
28	18	Has 10 grandchildren she played with 24/7.
29	18	"My husband had left me since I've been sick and stuff. My husband had walk out on me. He have came back and I know there are other women he was going with. And during the time before then, I never had any problems with him."
30	1	"And just sometimes we want to have sex and stuff, he understand that I can't have sex because we tried it one time and it hurt me so bad he had to stop. It's pitiful."
30	9	Before the accident "Me and my husband used to have sex just about every night that it was and then sometimes two and three times. We was really sexual. We would love one another and stuff like that."
31	1	We had no marital problems before the accident.
31	6	Before the accident my husband was faithful to me.
31	10	Before the accident we were having sex almost every night and sometimes more than once or twice.
31	14	After the accident my husband has left me twice.
31	18	One time it was just about 2 months when he went with a local woman.
32	5	He came back and then left again for about a week or two. He won't tell me where he went.
32	21	He came back about a week or so ago.
33	4	He has been back in the house about a week.
33	5	No he's been back at home now probably about seven or eight months.
33	17	Husband is a pipelayer for W.S. Newell roadbuilding company.
34	2	She has a 9th grade education. Attended Camden Academy. Left school when she got pregnant.
34	22	First husband was Willie Lee Beverly.
35	13	Willie Price has about a 10th grade education.
35	22	She was last employed as a textile worker for a shirt factory.
36	21	Neither she nor Willie Lee Beverly filed any suits in Camden.
37	2	Had last been to a doctor about 2-3 months before the accident. Dr. Cook.
37	23	Machine was purchased in December 2003.

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Page	Line	Testimony
38	19	DX-1 was written by the guy at Wal-Mart who assembles the bikes. He was a cashier in the back there where they assemble in the back.
39	39	It was the Wal-Mart on the Eastern Blvd in Montgomery.
39	9	Does not know his name.
39	13	Page PR27 of DX-1 has "Ms. Deloise Price", "TR 02812" and "396-6479" written on it. The man at Wal-Mart wrote all. The number is her house telephone number.
40	8	He also wrote "Purchase 11 December '03"
40	13	He also wrote "Please assemble".
40	20	He also wrote "Thanks" signed a name. Name is illegible.
40	23	Page 2 of DX-1 shows a code and some writing taken off the bike by her grandson.
41	17	She can barely read. Don't spell correct.
42	8	Myself and my husband went to the Wal-Mart on December 11, 2003.
42	11	"He's buying me something for Christmas and every year lately I would get a piece of equipment for a gym and that's what I wanted that I didn't have."
42	19	I already had a lounge chair for exercise.
42	3	Already had a treadmill.
42	6	I already had a weight thing that you twist and spin around for your sides.
44	2	Also had little 5 pound weights.
44	5	My gym was on the back porch, the patio behind my home.
44	18	Wen to Wal-Mart knowing she was going to buy this equipment.
44	22	Wanted one because I have been to a gym and used one before.
45	18	She calls the equipment an "exercise bike".
46	3	She had used one before at her sister's house. Martha Mack. She has a whole gym too. She had used one several times at people's houses. No health club.
47	3	My ex-daughter in law, Regina Beverly also had one.
48	3	I was excited to get one for Christmas in 2003.
48	9	Wal-Mart is my favorite store. Still is.
48	15	Had been by there to look at the product before.
48	18	Wal-Mart had one set up to look at. It wasn't for sale.
49	7	Does not recall who she spoke to about the product.
49	14	He was a older black person. He was older than me and very nice.
50	1	She did not get on the floor sample and try it.
50	9	She cannot recall anything he said about the product.
50	12	The machine she wanted was in a box.
50	19	Asked if they assembled the exercise bike and he said yes for a fee.
50	23	It think it was \$10 or \$15 to assemble.

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Page	Line	Testimony
51	4	Without assembly I think the machine cost \$140 or some odd dollars.
51	9	It was not on sale.
51	15	Paid by check. She has found the check she used to pay.
51	22	She does not have the receipt for the product.
52	5	The check did not include the assembly fee.
52	12	Wrote the check on December 11, 2003.
52	16	We left and they called about a week later. We had to go pick it up at the store.
53	4	Willie Price went with me to pick up the assembled product. We drove a Chevy Lumina Van with the seat taken out.
53	13	The product was fully assembled as far as I know. There were no pieces they gave us to put on when we got it to the house.
53	21	They gave us the product manual.
54	16	Me and Willie picked it up and put it in the van at the Wal-Mart.
55	1	Me and Willie took it out of the van when we got home.
55	5	"We unlock the gate and carried it around and put it on the patio and had some thick plastic. We double wrapped it about five or six times and taped it with duct tape 'cause we were waiting until around June or July."
55	13	"Every year around June or July all my younger family get together and start putting like \$5 a week in a jar until Thanksgiving and whoever lose the most weight that's who get the jar."
55	20	We can't start losing weight until June or July.
56	2	The weigh in is in June/July. You don't want to be thin then if you want the money. As much as \$600 is involved
57	2	Me and Willie wrapped up the product when we got home because the patio is not protected from the weather. Also, she didn't want anyone to steal the thing.
58	3	The machine just sat there until June when the family bet started.
58	13	June 23 or 24 is my son's birthday and my sister's birthday and we have a big dinner. "We had a barbeque throw down."
59	15	I weighed in at 202 pounds or something like that.
60	5	We've had this bet for about 3 years or longer. I don't know.
60	23	Nobody used the product from the time they brought it home in December 2003 until June 2004.
62	13	DX-2 is excerpts from product manual: She reads the "Things to Do" 3rd item as follows: "Tie all--what is that, that's tight all securely before using equipment."
62	17	"That's what I paid them to do."
62	3	Not sure she understands what equipment is supposed to be tight.
62	8	Paid them to tighten the bolts.
62	23	She would not have used the equipment if she knew the bolts were loose because she "knew that would be some danger."
64	4	Used it about 5-10 minutes before she fell off.
64	11	She was the first person to use the product.

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Page	Line	Testimony
64	20	No one has used it since she fell.
64	23	It has been in the house since she fell.
65	9	The accident happened on the patio.
66	2	Dinner was about 3 p.m.
66	7	Present were: Martha Mack, Willie Lee Beverly, Latora or Leyokie Beverly, Michelle Jackson, Ella Jackson and Willie Price.
68	16	Ella left after we ate and did not see the accident. Neither did Leyokie.
68	21	The following were outside on the patio when the accident happened: Willie Beverly Jr., Michelle Jackson, Martha Mack, Willie Price and Deloise Price.
69	22	All of them saw the accident happen.
70	7	The treadmill and the ab lounge were out on the patio also.
70	17	We were in the backyard because it was a beautiful day. That was the day we were going to start our exercise weight loss competition.
71	5	All the exercise equipment was being used. Michelle Jackson (daughter) was on the treadmill.
75	17	No one was drinking alcohol. We had been to church, came back home, ate dinner. Don't drink. Last time I had a beer was when I was 16. Don't smoke and don't drink.
79	13	When I fell I hit the back of the bike and then down on the ground.
80	13	I fell backwards and on the concrete.
80	18	I think my back, my lower back, hit the concrete first. Right leg was up underneath me bent.
81	6	Did not notice anything loose during 5-10 minutes she used the product.
81	11	Was not using the computer display.
82	6	She was pedaling and using the handlebars like you are supposed to.
82	16	The handle broke loose. I think it was the left handle.
83	3	Can't say if she was pulling or pushing the left handle bar when it broke loose.
83	18	The left handlebar was laying on her as she laid behind the machine.
84	7	Fell back and onto the right side of the machine on my right side.
86	2	"At first they laughed because they really didn't know I had hurt myself. My husband and my son picked me up and they went to hollaring screaming she hurt, she hurt, that handlebar done broke."
86	10	They took me to the sofa.
86	12	Was wearing Nikes, white sneakers with the little silver around and a blue joggin set and a white blouse underneath.
86	23	Had cuts and scrapes on right elbow.
87	7	Also had scrapes on left wrist and forearm.
87	10	No other cuts or scrapes on her body.
87	15	After we got to the sofa "I told them I was all right. Just let me lay there for a while."
87	19	My sister cleaned the blood and grit off my elbow.

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Page	Line	Testimony
88	1	"They try to make me go to the doctor and I wouldn't go 'cause I just wouldn't go. I didn't know I was injured that bad."
88	20	Michelle Jackson is also on disability. Michelle has poor vision.
89	10	They gave me some aspirin and put ice in a sock for my back and neck and right knee.
90	5	No clothes were torn or cut.
90	8	Head hit up against the brick.
91	5	Just had surgery on left shoulder because of this.
91	23	[Has large Keloid Scars on head from unrelated surgery] Has no scars from the incident.
92	12	Did not go to a doctor right away "'cause I was not hurting as bad to go to a doctor. I was not hurting bad. I can stand some pain and as I would take Aleve and whatnot. And it got so that it wasn't helping me and I was swelling big with my leg, was still swelling." Kneecap was swelling on right.
93	1	"The next morning I couldn't turn. I couldn't even pick my neck up off the pillow and back."
93	18	Had visible bruises on the back of neck.
94	7	Thinks it was Monday or Tuesday that husband took her to see a doctor.
94	13	She still did not want to go "'cause I just didn't want to go. I didn't know I was hurt like I was hurt."
96	17	My daughter went over the manual with me before I got on the machine.
97	5	No one checked the machine to see if the bolts were tight.
97	12	No one made any adjustments to the machine. Nobody touched it.
98	1	Had no trouble with machine until the handlebar came loose. Had not worked up a sweat.
99	5	She still has a driver's license but no longer drives. Has no tickets because she hasn't been driving.
100	4	First went to a Pri-Med on East Blvd.
101	4	Mentioned throbbing and constant pain for two days. [on record dated 6/29/04]. Was taking Humulin, Clonidine, Lasix and depression medicine.
102	12	Had been on depression medicine about six months before the accident due to a lot of death in the family. Nephew killed himself.
103	3	Doesn't dispute Pri-Med record showing her weight on 6/29/04 to be 229 pounds.
104	5	Doctor told her she had spasms in her back and a lot of soreness. "Give it time."
104	16	Got prescription for Lorcet and Soma "for the muscles".
106	23	Remembers later having a knee MRI and being told the knee was sprained.
107	20	Later Dr. Tucker Mattox did arthroscopy on right knee and said she had a torn ligament. Said she needed a knee replacement as a result of this accident.
109	13	"A lot of them [Drs] told me they don't find the problem."
109	23	Physical therapy at HealthSouth did not help. [HeathSouth 2/23/3005 report says neck paid dramatically better]. Her neck and back and right knee and shoulder are all worse.
110	22	Dr. Hartzog did surgery on left shoulder.
111	8	Received epidurals at the Pain Center. "Liked to kill me." Did not help.

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Page	Line	Testimony
111	23	Dr. Hrynkiw at paid center told her he could do nothing further to help her.
112	4	Has not fallen since accident.
112	15	No one referred me to Dr. Chestnutt the chiropractor.
113	1	Chiropractor has helped a little bit.
113	4	Stopped going with insurance stopped paying.
113	20	Current medical problems: "Start in my nec, my shoulder, and my back and my knee and other places too; sex."
114	2	Have been in a wheelchair about a year. Dr. Roseanne Cook ordered it for me.
115	9	Had a torn ligament in my left shoulder. Dr. Hartzog said it happened in the accident.
115	19	Dr. Patrick Ryan treats me for my back and neck.
116	11	Dr. Cook and Dr. Ryan have talked about more surgery and Dr. Hartzog. Surgery on my neck.
116	23	Don't want more surgery because the last one "liked to kill me." The shoulder surgery.
117	17	Dr. Cook put me in a back brace and a "T" pump because "I said I am not having no surgery."
118	11	I don't know why I wasn't able to work before the accident. Nobody told me to go back and be evaluated or anything like that.
118	23	Currently taking Lortab 4 or 5 times a day. And Naprosyn as needed.
119	15	The depression got worse after the accident so I am on different depression medicine I take in the morning and at night.
121	6	Weight today is almost 250 pounds.
121	9	Currently has trouble going to the bathroom. Drs. Say that when I had accident that it started my bladder to having spasms.
121	22	Never talked to anyone at Wal-Mart about the accident.
122	4	Has kind of kept up with out-of-pocket expenses.
122	20	Ever since August of 2004 my husband has been paying two girls to come in and help me every day for \$100 a week. They bathe me, comb my hair, get my clothes, cook, clean up, change my beds. They take me places.
123	7	They stay during the day while my husband works. My daughter stayed with me when my husband left
125	4	Currently cannot walk to the bathroom without stopping to rest.
126	4	Need a new bed but Medicare will not pay for it.
126	20	[This has] "messed my life up that's for sure. I'm messed up and messed up form my grands, my greatgrands and it has interrupt with my family life, my husband and stuff like that."
127	1	"And I get very depressed because it hurt me. I can't go and do the things I like to do. I look at myself in the mirror. Sometime I say I'm not even worth living and I have somebody stay around me all the time. I kill myself because I a'int used to this kind of life. I get very depressed. I mean very depressed. I hurt all the time. All the time. 24/7. I be scared I'm going to get to be a dope addict taking all those pills but if I don't take them, I just suffer."
127	15	"And before then I went everywhere. I was a big worker in the church and everything but no more. I can't do it. I'm the mother of the church and I cannot do the sacrament or anything. My paster have come over a lot of times and pray for me because it's hard."

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Page	Line	Testimony
128	2	"Don't noby but me and the Lord know what I go through. It's real heard. Any everytime I say I be glad when I get that bike out of my house. I have flashbacks when I see it a lot of time. I think about it. Like today when you were pedaling that bike I saw myself just a go a falling. It just tears me apart. I told my son I probably go back with him for a while."
128	12	"Like Christman and things that I used to enjoy with the grandchildren, I couldn't do it. And you just don't know how outgoing I was. I had all kinds of fruit trees and pecans and stuff. I can't get none of them. People down there on my place getting them all. That bother me. I can't do it. I feel like life ain't living for."
129	1	"Honest to God I say sometime I wish I wouldn't be on this earth."
129	6	Member of Hope Ministrey International.
130	5	Doctors have calmed pain down and it just gradually come on back up.